IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Rev. No.333 of 2007
Date of Decision:- 19.03.2007

Ramesh Kumar ....Petitioner(s)

through
Mr.K.S.Dadwal, Advocate

vs.

State of U.T., Chandigarh ....Respondent(s)

through
Mr.Rajiv Sharma, Advocate.

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CORAM:-HON'BLE MR.JUSTICE SURYA KANT.

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1) Whether Reporters of the local papers may be allowed to see the judgment?
2) To be referred to the Reporters or not?
3) Whether the judgment should be reported in the Digest?

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SURYA KANT, J.

This revision petition is directed against the judgment and order dated 11.1.2003 passed by the learned Judicial Magistrate, Ist Class, Chandigarh whereby the petitioner has been convicted under Sections 279/337/304-A IPC and has been awarded rigorous imprisonment of one year apart from fine, as well as against the judgment dated 6.2.2007 passed by the learned Additional Sessions Judge, Chandigarh whereby the petitioner's appeal against the above-stated order of his conviction and sentence, has been dismissed.

On February 22, 2007, the following order was passed.

> "On a perusal of both the judgments, it is apparent that the courts below, relying upon the eye witness account, especially the deposition made by Anil Bhakhri (PW-7) who was sitting on the pillion of the scooter driven by

Kulwant Rai deceased, have held that the accident was caused due to rash and negligent driving of the truck. It may be noticed here that the petitioner is a truck driver and as per the findings returned by both the courts, the truck came from the opposite side in a zig zag manner.

Though, a contention is being raised on behalf of the petitioner that the deceased scooterist was under the influence of liquor, however, this very contention was also raised before the learned first appellant court and has been elaborately dealt with and rightly turned down.

In this view of the matter, when no case of perverse finding is made out, no case for interference in exercise of revisional jurisdiction is made out. Consequently, this revision petition, so far the petitioner's conviction is concerned, is dismissed.

Faced with this situation, learned counsel for the petitioner states that this is the solitary accident ever caused by the petitioner while working as a driver and he being the sole bread earner of the family, the quantum of sentence, i.e. one year RI is too harsh. Some other mitigating circumstances have also be explained.

Notice of motion on the limited issue of quantum of sentence only for March 12, 2007.

Notice re:suspension of sentence also."

Thereafter the case was adjourned for today to enable learned counsel for the petitioner to find out as to how much compensation was

awarded to the dependents of the deceased by the Motor Accident Claims Tribunal and as to whether or not the same has been paid to them.

Learned counsel for the respondents has handed over a photostat copy of the award dated 16.9.2000 passed by the Motor Accident Claims Tribunal whereby the dependents of the deceased awarded a compensation of Rs.3,84,000/- along with interest at the rate of 12% per annum from the date of filing of the claim petition till its realization.

Learned counsel for the petitioner states at the Bar that the above-stated amount of compensation has already been paid to the claimants.

For the reasons mentioned in the order dated February 22, 2007 reproduced above, the impugned judgments are modified to the extent of the actual period of sentence already undergone by the petitioner, however, the amount of fine is increased from Rs.1,000/- to Rs.25,000/-. It is, however, directed that the petitioner would be released in case he pays the enhanced amount of fine in the Court of Chief Judicial Magistrate, Chandigarh/trial Court within a period of three months after his release and on his failure to do so, the orders dated 11.1.2003 and 6.2.2007 passed by the learned Judicial Magistrate, Ist Class, Chandigarh and the learned Additional Sessions Judge, Chandigarh respectively shall stand revived and in that event, the present revision petition shall be deemed to have been dismissed and as a result thereof, the petitioner shall be taken into custody so as to undergo the remainder of the sentence.

March 19, 2007 **(SURYA KANT)**
poonam **JUDGE**